



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

NOV 29 2002

OFFICE OF  
PREVENTION, PESTICIDES AND  
TOXIC SUBSTANCES

Don R. Knowles, Director  
Office of Protected Resources  
National Marine Fisheries Service  
1315 East-West Highway.  
Silver Spring, MD 20910

Dear Mr. Knowles,

The Office of Pesticide Programs (OPP), U. S. Environmental Protection Agency (EPA), respectfully requests the initiation of Endangered Species Act (ESA) section 7(a)(2) consultation. This consultation request addresses 26 Evolutionarily Significant Units (ESUs) of Pacific salmon and steelhead that have been listed as Federally endangered or threatened and one pesticide registered by EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for uses within the range of the listed ESUs. The pesticide subject to this request contains the active ingredient bensulide which is registered for a variety of crops that may be grown within the range of listed salmon and steelhead. It is also registered for use on golf course greens and tees and home lawns. Our long term intent is to make effects determinations and consult, as appropriate, relative to all listed species and locations. However, as per agreement with the National Marine Fisheries Service, this request is limited to Pacific salmon and steelhead for which NMFS has responsibility (see enclosure).

Bensulide is registered for a variety of crops, primarily lettuce and other leafy vegetables, onions, melons, broccoli and related cole crops, fruits, nuts, cotton, mint, potatoes, hops, and seed crops. Actual use of bensulide in California is primarily upon lettuce, broccoli, cabbage, melons, and cantaloupes, but a variety of other crops are treated. Of the 188,854 pounds reported to have been used in California in 2001, 66,339 pounds (35%) was within the range of one or more salmon and steelhead ESUs; a large portion of this is in coastal counties south of San Francisco. Actual use of bensulide on crops in the Pacific Northwest states is unclear, although it appears that most use in areas with listed salmon and steelhead is on onions. Bensulide may also be used on golf course greens and tees, but this use will not affect salmon and steelhead. Bensulide may be used on home lawns, primarily for crabgrass control. We do not have information on the amounts and locations for this use of bensulide.

OPP has determined that there will be no effect from the use of bensulide on 7 ESUs; that bensulide may affect, but is not likely to adversely affect 2 ESUs; and bensulide may affect 17

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ESUs.<sup>1</sup> For the latter 17 ESUs, OPP recommends an approach for deriving and implementing protective measures to avoid jeopardy and limit or eliminate incidental take. OPP requests concurrence on our not-likely-to-adversely-affect findings for the 2 ESUs, and a biological opinion for the last 17 ESUs.

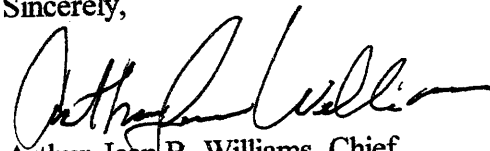
The 26 salmon and steelhead ESUs occur throughout western watersheds, except the Colorado River, that drain into the Pacific Ocean. The primary threats for these ESUs have been the continued development of the western states for a variety of human-related activities, including residential and commercial development, agriculture, and forestry, along with genetic swamping of certain ESUs by unrelated hatchery stocks. These activities have resulted in barriers to up stream and down stream migration, loss of available water, reduced water quality, and physical modification of aquatic and riparian habitat. Excessive harvesting may also have played a role in their decline. Listing of these salmon and steelhead ESUs has sensitized the public to the need to provide protection. As a result, California has included them in their "Interim Measures" county bulletins for protecting endangered and threatened species, thus providing protection from pesticide use. Washington state has formed a task force which is working with NMFS and others to address pesticide use in that state. Oregon has developed specific projects that involve pesticide use and salmon and steelhead. We are unaware of any specific measures in place in Idaho that address pesticides.

OPP is currently working towards a final endangered species program. We are developing county-specific bulletins to address pesticide use and endangered and threatened species. It is through such county bulletins, along with pesticide label references to these bulletins, that OPP intends as its primary means of implementing its protections for salmon and steelhead and other listed species.

We look forward to working with NMFS to protect and help recover listed species. If you have any questions, please feel free to call me at (703) 305-5239, or your staff may contact my Senior Scientist, Dr. Larry Turner at (703) 305-5007.

Enclosures

Sincerely,

  
Arthur-Jean B. Williams, Chief  
Environmental Field Branch (7506C)

cc: Craig Johnson

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<sup>1</sup> See Memorandum, with attached analysis, from Larry Turner, Ph.D., Environmental Field Branch, OPP, EPA, to Arthur-Jean B. Williams, Chief, Environmental Field Branch, OPP, EPA, November 29, 2002 (attached).



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
Washington, D.C. 20230

OFFICE OF THE GENERAL COUNSEL

DEC 3 2001

Robert E. Fabricant  
General Counsel  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave, NW  
Washington, DC 20460

Dear Bob:

This letter follows up on our discussion of October 17 with your staff regarding the effects of EPA-registered pesticides on federally-listed species under the Endangered Species Act. We understand that, in connection with two ongoing lawsuits, EPA has been exploring with staff from the National Marine Fisheries Service and the Fish and Wildlife Service the possibility of EPA initiating consultation with the Services on specific uses of certain pesticides and their effects on the listed species identified in the litigation, including Pacific salmon and steelhead. As we discussed, MFS finds this approach acceptable, and looks forward to working further with EPA and FWS in our comprehensive national effort to address the effects of pesticides on listed species.

Sincerely,

Craig R. O'Connor

